



FEDERAL ELECTION COMMISSION
Washington, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kenneth James Krayeske
c/o Kenneth J. Krayeske Law Offices
255 Main Street, 5th floor
Hartford, CT 06106

AUG 22 2017

RE: MUR 6604

Dear Mr. Krayeske:

This is in reference to the complaint you filed with the Federal Election Commission on July 2, 2012, numbered MUR 6604, concerning in part allegations that John Rowland was paid for services he provided to Lisa Wilson-Foley for Congress ("Committee") that were not disclosed by the Committee. By letter dated March 6, 2014, you were notified that the Commission severed from MUR 6604 the allegations regarding payments to John Rowland into MUR 6566. Subsequently, in MUR 6566 the Commission found that there was reason to believe the Committee violated 52 U.S.C. §§ 30104(b) and 30116(f), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with payments to John Rowland, and conducted an investigation. The Commission also found reason to believe that the Committee and Lisa Wilson-Foley violated 52 U.S.C. § 30116(f) and the Committee violated 52 U.S.C. § 30104(b) in connection with payments to Lisa Wilson-Foley from Brian Foley, and that Brian Foley violated 52 U.S.C. §§ 30116(a) and 30122. On August 17, 2017, conciliation agreements with the Committee and Brian Foley were accepted by the Commission. Also on that date the Commission determined to take no further action as to Lisa Wilson-Foley and found no reason to believe that Apple Health Care, Inc., or John Rowland violated 52 U.S.C. § 30118(a). Accordingly, the Commission closed the file in this matter on August 17, 2017.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Copies of the agreements with the Committee and Brian Foley are enclosed for your information. In addition, copies of the Commission's Factual and Legal Analyses for Brian Foley, the Committee, Lisa Wilson-Foley, Apple Health Care, Inc., and John Rowland are enclosed.

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If you have any questions, please contact me at (202) 694-1650.

Sincerely,



Mark Allen
Assistant General Counsel

Enclosures
Conciliation Agreements
Factual and Legal Analyses

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

MUR 6566

Lisa Wilson-Foley for Congress and)

OFFICE OF GENERAL

Lisa Wilson-Foley in her official capacity)

as treasurer)

CONCILIATION AGREEMENT

This matter was initiated by signed, sworn, and notarized complaint by Mike Clark in MUR 6566.¹ The Federal Election Commission ("Commission") found reason to believe that Lisa Wilson-Foley for Congress and its treasurer in their official capacity ("Respondents") knowingly and willfully violated 52 U.S.C. §§ 30104(b) and 30116(f), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act").

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 52 U.S.C. § 30109(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

¹ This matter was also initiated by a signed, sworn, and notarized complaint by Kenneth James Krayeske in MUR 6604. The Commission merged the relevant portion of MUR 6604 into MUR 6566.

1 A. Lisa Wilson-Foley for Congress is the principal campaign committee of Lisa
2 Wilson-Foley, a 2012 candidate for the U.S. House of Representatives in the
3 5th Congressional District of Connecticut. Lisa Wilson-Foley is the current
4 treasurer, but was not the treasurer at the time of the activity addressed in this
5 Agreement.

6 B. The Act prohibits any person from making contributions in excess of the
7 limits imposed by the Act, which, in the 2012 election cycle, barred an
8 individual from contributing more than \$2,500 per election to a candidate and
9 her committee. 52 U.S.C. § 30116(a). The Act also prohibits candidates and
10 political committees from knowingly accepting a contribution in excess of
11 these limits. 52 U.S.C. § 30116(f).

12 C. The Act and Commission regulations require political committees to report all
13 contributions received, whether monetary or in-kind, during a given reporting
14 period. 52 U.S.C. § 30104(b); 11 C.F.R. § 104.3. "Contribution" includes the
15 payment by any person of compensation for the personal services of another
16 person rendered to a political committee without charge for any purpose.
17 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. §§ 100.52(d), 100.54.

18 D. A violation of the Act is considered knowing and willful if the "acts were
19 committed with full knowledge of all the relevant facts and a recognition that
20 the action is prohibited by law." 122 Cong. Rec. 12,197, 12,199 (May 3,
21 1976); *see also United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va.
22 2013).

1 E. Respondents received the maximum permissible contribution from Brian
2 Foley when, between June 9, 2011 and June 16, 2011, he contributed \$2,500
3 to the Respondents for each of the convention, primary and general elections.

4 F. Between November 2011 and April 2012, Brian Foley paid former
5 Connecticut Governor John Rowland a total of \$30,000 for services Rowland
6 provided to the Respondent Committee.

7 G. On March 31, 2014, in a criminal proceeding regarding the payments to
8 Rowland, Lisa Wilson-Foley pleaded guilty to conspiracy to make illegal
9 campaign contributions. *See* Plea Agreement, *United States v. Wilson-Foley*,
10 No. 3:14-CR-65 (D. Conn. Mar. 31, 2014).

11 V. The parties agree to the following, for the purposes of resolving this Matter Under
12 Review:

13 A. Respondents accepted and did not properly disclose a \$30,000 excessive in-
14 kind contribution from Foley in the form of payments to Rowland for services
15 he provided to the Respondents, and the Commission concluded that these
16 actions resulted in Respondents knowingly and willfully violating 52 U.S.C.
17 §§ 30104(b) and 30116(f).

18 VI. A. Respondents will pay a civil penalty to the Commission in the amount of
19 Thirty-Five Thousand Dollars (\$35,000), pursuant to 52 U.S.C.
20 § 30109(a)(5)(B).

21 B. Respondents will cease and desist from committing violations of 52 U.S.C.
22 §§ 30104(b) and 30116(f).

23 VII. The Commission, on request of anyone filing a complaint under 52 U.S.C.

24 § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review


1 compliance with this agreement. If the Commission believes that this agreement or any
2 requirement thereof has been violated, it may institute a civil action for relief in the United States
3 District Court for the District of Columbia.

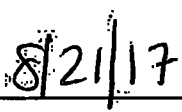
4 VIII. This agreement shall become effective as of the date that all parties hereto have
5 executed same and the Commission has approved the entire agreement.

6 IX. Respondents shall have no more than 30 days from the date this agreement becomes
7 effective to comply with and implement the requirements contained in this agreement and to so
8 notify the Commission.

9 X. This Conciliation Agreement constitutes the entire agreement between the parties on
10 the matters raised herein, and no other statement, promise, or agreement, either written or oral,
11 made by either party or by agents of either party, that is not contained within this written
12 agreement shall be enforceable.

13 FOR THE COMMISSION:

14 
15 _____
16 Kathleen Guith
17 Associate General Counsel
18 for Enforcement



Date

19 FOR THE RESPONDENTS:

20 
21 _____
22 Benjamin S. Proto, Jr.,
Attorney for Respondents



Date

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1 C. The Act prohibits any person from making contributions in excess of the
2 limits imposed by the Act, which, in the 2012 election cycle, barred an
3 individual from contributing more than \$2,500 per election to a candidate and
4 her committee. 52 U.S.C. § 30116(a).

5 D. The Act prohibits any person from making a contribution in the name of
6 another. 52 U.S.C. § 30122.

7 E. A violation of the Act is considered knowing and willful if the “acts were
8 committed with full knowledge of all the relevant facts and a recognition that
9 the action is prohibited by law.” 122 Cong. Rec. 12,197, 12,199 (May 3,
10 1976); *see also United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va.
11 2013).

12 F. Respondent, between June 9, 2011 and June 16, 2011, contributed the
13 maximum amount permitted under the Act in the 2012 election cycle —
14 \$2,500 — to the Committee for each of the convention, primary and general
15 elections.

16 G. Respondent, with knowledge of and intent to circumvent the Act’s
17 contribution limits imposed by 52 U.S.C. § 30116(a), agreed to reimburse and
18 did reimburse four individuals — Patricia Hyypa, Johanna Hyypa, Jeremy
19 Vearil, and Kenneth Lewis (collectively, the “conduits”) — for contributions
20 they made to the Committee totaling \$30,000 between June 2011 and March
21 2012. Each conduit contributed the maximum amount permitted under the
22 Act in 2012 —\$2,500 — to the Committee for each of the convention,
23 primary and general elections.

V. Respondent knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making contributions in the name of another, and in doing so made an excessive contribution to Lisa Wilson-Foley for Congress totaling \$30,000.

VI. A. Respondent will pay a civil penalty to the Commission in the amount of Ninety Thousand Dollars (\$90,000), pursuant to 52 U.S.C. § 30109(a)(5)(B).

The civil penalty will be paid as follows:

1. A payment of at least Thirty Thousand Dollars (\$30,000) is due no more than sixty (60) days from the date this agreement becomes effective;
2. Thereafter, installment payments of equal amounts shall be due every thirty (30) days after the due date of the previous payment;
3. The final payment shall be received by the Commission no later than December 31, 2017;
4. In the event that any payment is not received by the Commission by the fifth day after which it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten days written notice to the Respondent. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future overdue payments.

B. Respondent will cease and desist from committing violations of 52 U.S.C. §§ 30116(a) and 30122.

VII. The Commission, on request of anyone filing a complaint under 52 U.S.C. § 30109(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Except as otherwise specified, Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained within this written agreement shall be enforceable.

FOR THE COMMISSION:

Kathleen Guith
Kathleen Guith
Associate General Counsel
for Enforcement

8/21/17
Date

FOR THE RESPONDENT:

V. DeVito
Vincent DeVito
Attorney for Brian Foley

5/11/17
Date

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 RESPONDENT: Apple Health Care, Inc.

MUR 6566

4
5 **FACTUAL AND LEGAL ANALYSIS**

6
7 **I. INTRODUCTION**

8 This matter was generated by a Complaint filed with the Federal Election
9 Commission alleging that Apple Health Care, Inc. ("Apple Health") made in-kind
10 contributions to Lisa Wilson-Foley for Congress (the "Committee") in violation of the
11 Federal Election Campaign Act of 1971, as amended (the "Act").¹ Specifically, the
12 Complaint alleges that Apple Health paid John Rowland, a former governor of
13 Connecticut, as a "consultant" while he provided campaign work for the Committee,
14 suggesting that those payments were in fact payments for services Rowland provided the
15 campaign.² The president of Apple Health is Brian Foley, the spouse of Lisa Wilson-
16 Foley.

17 **II. FACTUAL AND LEGAL ANALYSIS**

18 Corporations are prohibited from contributing to federal candidate committees.³
19 "Contribution" under the Act and Commission regulations includes the payment by any
20 person of compensation for the personal services of another person rendered to a political
21 committee without charge for any purpose.⁴

¹ The Committee is the principal campaign committee of Lisa Wilson-Foley, a candidate for the U.S. House of Representatives in the Fifth Congressional District of Connecticut in 2012.

² Compl. ¶ 6, MUR 6566. The same allegations were made in the Complaint in MUR 6604. The Commission severed these allegations from MUR 6604 and merged them into MUR 6566.

³ 52 U.S.C. § 30118(a).

⁴ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. §§ 100.52(d), 100.54.

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1 Brian Foley admitted in his guilty plea to personally paying Rowland for his work
2 with the Committee.⁵ Accordingly, the Commission finds no reason to believe that
3 Apple Health made a corporate contribution in violation of 52 U.S.C. § 30118(a).

⁵ See *United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 31, 2014).

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 RESPONDENT: John Rowland

MUR 6566

4
5 **FACTUAL AND LEGAL ANALYSIS**

6
7 **I. INTRODUCTION**

8 This matter was generated by a Complaint filed with the Federal Election
9 Commission alleging that Apple Health Care, Inc. ("Apple Health") made in-kind
10 contributions to Lisa Wilson-Foley for Congress (the "Committee") in violation of the
11 Federal Election Campaign Act of 1971, as amended (the "Act").¹ Specifically, the
12 Complaint alleges that Apple Health paid John Rowland, a former governor of
13 Connecticut, as a "consultant" while he provided campaign work for the Committee,
14 suggesting that those payments were in fact payments for services Rowland provided the
15 campaign.² The president of Apple Health is Brian Foley, the spouse of Lisa Wilson-
16 Foley.

17 **II. FACTUAL AND LEGAL ANALYSIS**

18 Corporations are prohibited from contributing to federal candidate committees.³
19 Corporate officers and directors may not "consent" to any contribution by the corporation
20 that is prohibited by section 30118(a).⁴ The Act further prohibits any candidate, political
21 committee, or other person from knowingly accepting or receiving an impermissible

¹ The Committee is the principal campaign committee of Lisa Wilson-Foley, a candidate for the U.S. House of Representatives in the Fifth Congressional District of Connecticut in 2012.

² Compl. ¶ 6, MUR 6566. The same allegations were made in the Complaint in MUR 6604. The Commission severed these allegations from MUR 6604 and merged them into MUR 6566.

³ 52 U.S.C. § 30118(a).

⁴ *Id.*

1 corporate contribution.⁵ “Contribution” under the Act and Commission regulations
2 includes the payment by any person of compensation for the personal services of another
3 person rendered to a political committee without charge for any purpose.⁶

4 The Complaint alleges that Rowland was a paid consultant for Apple Health while
5 he provided assistance to the Wilson-Foley campaign, purportedly in a volunteer
6 capacity.⁷ The Complaint further alleges that Apple Health’s payments to Rowland may
7 have constituted unreported corporate contributions from Apple Health to the
8 Committee.⁸

9 Rowland is not an officer or director of Apple Health and consequently would not
10 have authorized or consented to the alleged corporate contribution.⁹ Nor does Rowland
11 appear to have accepted the alleged contribution for the Committee because there did not
12 appear to be an agency relationship between Rowland and the Committee. Although the
13 evidence now shows that Brian Foley paid Rowland, it remains that Rowland neither
14 made nor accepted the contribution to the Committee.¹⁰

⁵ *Id.*

⁶ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. §§ 100.52(d), 100.54.

⁷ Compl. ¶ 1, MUR 6566.

⁸ *Id.* ¶ 6.

⁹ *See* 52 U.S.C. § 30118(a).

¹⁰ *See United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 31, 2014). Rowland was tried and found guilty of aiding and abetting violations of 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f) (now 52 U.S.C. §§ 30116(a)(1)(A) and 30116(f)) (making and accepting excessive contributions) and for violating 18 U.S.C. §§ 1519 (falsification of records), 371 (conspiracy), and 1001 (false statements). *See* Jury Verdict, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Sept. 19, 2014). On March 18, 2015, he was sentenced to 30 months in prison. *See* Sentencing, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Mar. 18, 2015). Rowland’s conviction was affirmed on appeal. *See United States v. Rowland*, 826 F.3d 100 (2d Cir. 2016).

- 1 Accordingly, the Commission finds no reason to believe that John Rowland
- 2 violated 52 U.S.C. § 30118(a).

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **RESPONDENT:** Brian Foley

MUR: 6566

4 **I. INTRODUCTION**

5 For the reasons discussed below, the Commission finds reason to believe Brian Foley:

6 (1) knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making contributions
7 in the names of four individuals, which resulted in an excessive contribution; and (2) violated
8 52 U.S.C. § 30116(a) by giving Lisa Wilson-Foley, his spouse, \$500,000 to contribute to her
9 principal campaign committee, Lisa Wilson-Foley for Congress ("the Committee").

10 **II. BACKGROUND**

11 In the course of related criminal proceedings, Foley testified at the September 2014 trial
12 of former Connecticut Governor John Rowland.¹ Based on Foley's testimony, and additional
13 information available to the Commission, as discussed in detail below, the Commission notified
14 Foley as a respondent and gave him the opportunity to respond.² Foley responded after a
15 substantial extension, for which he provided an agreement tolling of the statute of limitations.³

16 **III. FACTUAL AND LEGAL ANALYSIS**

17 **A. Foley Knowingly and Willfully Violated 52 U.S.C. §§ 30116(a) and 30122 by**
18 **Reimbursing Four Individuals for Contributions to the Committee**

19 The available information indicates that Foley reimbursed campaign contributions made
20 by four individuals: (1) his sister and employee, Patricia Hyypa; (2) his niece, Patricia's
21 daughter, Johanna Hyypa; (3) his nephew and employee, Jeremy Vearil; and (4) his childhood

¹ *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014).

² See Notification to Brian Foley, MUR 6566 (Nov. 5, 2015).

³ Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Foley) (Dec. 22, 2015) (tolling the statute of limitations for 120 calendar days).

1 friend and employee, Kenneth Lewis. According to the Committee's disclosure reports, the
2 Hyypas, Vearil, and Lewis each contributed the maximum \$2,500 to the Committee for the
3 nominating convention and the primary and general elections, resulting in total contributions of
4 \$7,500 per person.⁴ The available information indicates that Foley gave these individuals the
5 money to make contributions to the Committee.

6 When Foley testified for the government at Rowland's trial, he was asked about the four
7 contributions. He testified that he had "understandings" with the Hyypas, Vearil, and Lewis,
8 promising to reimburse each of them if they made contributions to the Committee.⁵ With respect
9 to Lewis, for example, Foley told the court, "I had an understanding that if he donated to Lisa's
10 campaign that I would make good on it. . . . In some way reimburse him for it."⁶ He testified
11 that he had the same arrangements with Patty Hyypa, Johanna Hyypa, and Vearil,⁷ and that he
12 did, in fact, reimburse their contributions.⁸

13 Foley was asked about his understanding of the Act's contribution limits and disclosure
14 requirements at the time of the reimbursements, testifying:

15 Q. Did you understand that there was like a maximum amount of
16 donations a person could make [to the Committee]?

17 A. Yes.

18 Q. What did you understand that to be?

19 A. \$7,500.

20 Q. And did you make the max donation?

⁴ In Connecticut, political parties hold nominating conventions prior to the primary and general elections. Thus, in 2012, when the applicable contribution limit was \$2,500 per election, the maximum contribution per person was \$7,500. With respect to the Hyypas, Vearil, and Lewis, the \$2,500 contributed for the general election was refunded after Wilson-Foley lost the primary election.

⁵ Transcript of Record at 179-82, *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014) (Doc. 158) ("Rowland Transcript").

⁶ *Id.*

⁷ *Id.* at 181.

⁸ *Id.* at 215 ("Q: Did you, in fact, reimburse your sister and her daughter for these contributions? A: Yes.").

1 A. I did.

2
3 Q. And, Mr. Foley, so you are maxed out at [\$]7,500. Did you want
4 to make more contributions to the campaign?

5 A. Yes.

6 Q. Did you arrange with other people to make contributions to the
7 campaign?

8 A. Yes.

9
10 Q. Mr. Foley, did you think you were allowed to do this?

11 A. No.

12 Q. Were any of these payments reported to the FEC?

13 A. No.⁹

14 On cross-examination, defense counsel further questioned Foley about his reimbursements and
15 asked, "So did you know that you were engaging in federal criminal wrongdoing when you did
16 this?" Foley responded "Yes."¹⁰

17 In 2012, the Act prohibited an individual from making contributions to a candidate
18 which, in the aggregate, exceeded \$2,500 per election.¹¹ The Act further provides that no person
19 shall make a contribution in the name of another or knowingly permit his name to be used to
20 effect such a contribution, and that no person shall knowingly accept a contribution in the name
21 of another.¹² This provision proscribes both "false name" contributions and "straw donor" or
22 "conduit" contributions.¹³

23 Here, the available information indicates that, after reaching his own contribution limit to
24 the Committee, he arranged for the Hyypas, Vearil, and Lewis to make additional contributions

⁹ *Id.* at 179-82.

¹⁰ *Id.* at 215.

¹¹ 52 U.S.C. § 30116(a).

¹² 52 U.S.C. § 30122.

¹³ *United States v. O'Donnell*, 608 F.3d 546, 549, 553 (9th Cir. 2010).

1 to his wife's campaign totaling \$30,000.¹⁴ Foley made prior arrangements to reimburse each
2 conduit for their respective contributions to the Committee, and later followed through with
3 those reimbursements.¹⁵ By financing the contributions attributed to the Hyypas, Vearil, and
4 Lewis, Foley made excessive contributions in the names of others.¹⁶

5 Despite his sworn testimony, Foley disputes the allegation in his response to the
6 Commission. He states that there is "no information to suggest that any of the individuals
7 referenced did not voluntarily choose to contribute, or that they would not have contributed even
8 if Foley did not make gifts to them."¹⁷ However, the voluntariness of the conduits' contributions
9 does not vitiate the prior agreement that Foley would reimburse them and Foley's subsequent
10 payments to that effect.¹⁸ By pre-arranging to reimburse the Hyypas, Vearil, and Lewis, Foley
11 established himself the "true source" of their subsequent contributions to the Committee.¹⁹

¹⁴ Rowland Transcript at 180-82, 213-18.

¹⁵ *Id.* at 215.

¹⁶ Foley contributed \$2,500 to the Committee on June 9, 2011, and an additional \$5,000 on June 16, 2011. Because he thereby contributed the maximum, every additional contribution attributed to Foley is in excess of the limits established under 52 U.S.C. § 30116(a).

¹⁷ Foley Resp. ¶ 3.

¹⁸ *United States v. Whittemore*, 776 F.3d 1074, 1080 (9th Cir. 2015).

¹⁹ *Id.* Foley also asserts that there is no information to show that "the contributions made by these individuals came solely out of funds from Foley." Foley Resp. ¶ 3. Given that Foley does not dispute the information that he reimbursed the conduits, his response suggests that he did not fully reimburse the conduits; however, Foley has not qualified his statements that he provided these four individuals with the funds to make contributions and has not denied that he fully reimbursed the conduits. In the alternative, Foley may be emphasizing that he did not advance the funds, but instead reimbursed the conduits. Nevertheless, the courts and Commission have repeatedly held that an agreement to reimburse conduits — and subsequent reimbursement — has the same effect as advancing funds to an intermediary, and that in each case, the individual who reimburses his conduits is the "true source" of the contribution. See *O'Donnell*, 608 F.3d at 550-51; see also e.g., MUR 6223 (St. John); MUR 5948 (Critical Health Systems); MUR 5849 (Bank of America); MUR 5453 (Giordano, *et al.*).

1 Moreover, it appears that Foley's conduct may have been knowing and willful.²⁰ A
2 violation of the Act is considered knowing and willful if the "acts were committed with full
3 knowledge of all the relevant facts and a recognition that the action is prohibited by law."²¹
4 In this matter, Foley told the court that he was aware of the applicable contributions limits and
5 that he nonetheless sought to make additional contributions to the Committee.²² Foley further
6 testified that he knew this to be a violation of federal law and that he sought to evade detection.²³

7 Based on this information, the Commission finds reason to believe Brian Foley
8 knowingly and willfully violated 52 U.S.C. §§ 30116(a) and 30122 by making contributions in
9 the names of four individuals, and in doing so made an excessive contribution to the Committee
10 totaling \$30,000.

11 **B. Foley Made an Excessive Contribution in Violation of 52 U.S.C. § 30116(a)**
12 **by Conveying \$500,000 in Separately-Held Assets**

13 During the Rowland trial, Foley testified that he made a \$500,000 gift to Lisa Wilson-
14 Foley, his spouse, for use in her campaign. On direct-examination, Foley testified, "I understood
15 I could give my wife money directly which she could contribute, but in terms of my contribution
16 to the campaign, I understood I was maxed out at \$7,500."²⁴ During cross-examination, he
17 continued:

18 A. I told Lisa when she was going to run for Congress that I would
19 contribute half a million dollars. . . . \$500,000.

²⁰ See 52 U.S.C. § 30109(a)(5)(B), (d).

²¹ 122 Cong. Rec. 12,197, 12,199 (May 3, 1976); see also *United States v. Danielczyk*, 917 F. Supp. 2d 573 (E.D. Va. 2013) (holding that the "knowing and willful" standard does not require a showing that the respondent had knowledge of the specific statute or regulation allegedly violated, just that the respondent "acted voluntarily and was aware that his conduct was unlawful.").

²² *Rowland* Transcript at 179-80.

²³ *Id.* at 215.

²⁴ *Id.* at 179-80.

1 Q. I have no interest in probing into —
2 A. No, it's okay.
3 Q. Your private — I'm about to ask a question and I'm prefacing it by
4 saying I'm not interested in your private financial affairs with your
5 wife. But are there joint assets?
6 A. No.
7 Q. So they're separate.
8 A. Our assets are separate, yeah.
9 Q. So you were going to contribute a half a million bucks?
10 A. I did. I put [\$]500,000 into Lisa's campaign for Congress.
11 Q. And did Lisa make a substantial contribution on her own?
12 A. I think she put in about \$500,000 as well.
13 Q. In what form?
14 A. Just wrote checks to the campaign. And my checks went to Lisa
15 and then she put my money into the campaign.²⁵

16 The Committee's disclosure reports to the Commission show that, to date, Wilson-Foley has
17 made contributions to the Committee totaling \$47,756 and loans totaling \$960,000.²⁶

18 In response to the Commission's notifications, Foley asserts that his direct testimony
19 shows that he lacked "the requisite intent to establish violations of the Act."²⁷ He also asserts
20 that there is no information to show that "Lisa Wilson-Foley's contributions to her own
21 campaign came solely and exclusively out of funds provided to her by Foley."²⁸ He further cites
22 Connecticut law for the proposition that "where marital efforts were expended to maintain or
23 enhance individual accounts, and where portion(s) of individual accounts are used for marital
24 purposes, the accounts are marital assets" and state that this entitles Wilson-Foley "as much right
25 to their use as Foley himself."²⁹ However, Foley has not provided any additional information

²⁵ *Id.* at 228-29.

²⁶ Wilson-Foley made her first loan to the Committee on April 1, 2011; she made her most recent contribution on December 16, 2014.

²⁷ Foley Resp. ¶ 7.

²⁸ *Id.* ¶ 8.

²⁹ *Id.* ¶ 8 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).

1 about the source of the \$500,000 or any information to indicate that these assets were
2 “enhance[d]” by “marital efforts” or “used for marital purposes.”

3 As referenced above, in 2012 the Act prohibited persons from making contributions in
4 excess of \$2,500 to any candidate and his or her authorized political committee with respect to
5 any election for federal office.³⁰ The term “contribution” includes “any gift, subscription, loan,
6 advance, or deposit of money or anything of value made by any person for the purpose of
7 influencing any election for Federal office.”³¹

8 Federal candidates may make unlimited contributions from their “personal funds” to their
9 campaigns.³² “Personal funds” of a candidate means the sum of all of the following: (a) assets;
10 (b) income; and (c) jointly owned assets.³³ A candidate’s assets are amounts derived from any
11 asset that, under applicable state law, at the time the individual became a candidate, the candidate
12 had legal right of access to or control over, and with respect to which the candidate had legal and
13 rightful title or an equitable interest.³⁴ A candidate’s jointly owned assets are amounts derived
14 from a portion of assets that are owned jointly by the candidate and the candidate’s spouse as
15 follows: the portion of assets that is equal to the candidate’s share of the asset under the

³⁰ 52 U.S.C. § 30116(a)(1)(A).

³¹ *Id.* § 30101(8)(A)(i).

³² 11 C.F.R. § 110.10.

³³ *Id.* § 100.33. A candidate’s income consists of income received during the current election cycle, of the candidate, including: salary and other earned income that the candidate earns from bona fide employment; income from the candidate’s stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments; bequests to the candidate; income from trusts established before the beginning of the election cycle; income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary; gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and proceeds from lotteries and similar games of chance. *Id.* § 100.33(b).

³⁴ *Id.* § 100.33(a).

1 instrument of ownership or conveyance; or if no specific share is indicated by an instrument of
2 ownership or conveyance, the value of one-half of the property.³⁵

3 Although federal candidates may contribute unlimited personal funds to their campaigns,
4 their family members are subject to the Act's contribution limits.³⁶ The Commission has
5 enforced the contribution limit against family members who made excessive contributions to the
6 candidate's campaign in the form of asset transfers to the candidate.³⁷

7 Here, Foley testified at trial that he and his wife have separate assets and that he
8 transferred \$500,000 of his own assets to her to contribute to her campaign.³⁸ He testified that
9 Wilson-Foley used that money, along with approximately \$500,000 of her own separate assets,
10 to write checks to her campaign.³⁹ Indeed, the Committee's disclosure reports show that, to date,
11 Wilson-Foley has made contributions to the Committee totaling \$47,756.20 and loans totaling
12 \$960,000.⁴⁰

13 Because it appears Foley transferred funds to Wilson-Foley after she became a candidate,
14 the transferred funds do not qualify as Wilson-Foley's assets under 11 C.F.R. § 100.33(a).
15 Because the funds he transferred were separate and not held in a joint account, the transferred

³⁵ *Id.* § 100.33(c).

³⁶ The United States Supreme Court has upheld the constitutionality of the Act's contribution limits as applied to members of a candidate's family. *See Buckley v. Valeo*, 424 U.S. 1, 53 n.59 ("Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily members.").

³⁷ *See, e.g.*, MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by transferring \$900,000 from the spouse's separately-held trust account to the couple's joint account to be loaned to the candidate's campaign and transferring \$400,000 from the spouse's separately-held trust account directly to the candidate's campaign); MUR 5334 (O'Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse's separate business account).

³⁸ *Rowland Transcript* at 228-29.

³⁹ *Id.* ("[M]y checks went to Lisa and then she put my money into the campaign").

⁴⁰ The Committee has not repaid any of Wilson-Foley's loans.

1 funds were not jointly owned assets under 11 C.F.R. § 100.33(c). Given Foley's testimony that
2 he made the contribution from separately held assets, and that "[his] checks went to Lisa and
3 then she put [his] money into the campaign,"⁴¹ the \$500,000 at issue does not appear to qualify
4 as Wilson-Foley's personal funds. Instead, Foley's conveyance appears to be an excessive
5 contribution in violation of the Act. Accordingly, the Commission finds reason to believe Brian
6 Foley violated 52 U.S.C. § 30116(a) by giving Wilson-Foley a \$500,000 contribution from his
7 separately-held assets.

⁴¹ Rowland Transcript at 230. In his response, Foley asserts that Connecticut law considers individual accounts to be marital assets where "portion(s) of individual accounts are used for marital purposes." Foley Resp. ¶ 8 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).

Connecticut law appears to allow courts broad discretion in classifying and reallocating the property of spouses, allowing courts to consider numerous factors, including the contribution of each party in the acquisition, preservation or appreciation in value of their respective estates. CONN. GEN. STAT. § 46b-81 ("At the time of entering a decree annulling or dissolving a marriage... the Superior Court may assign to either the husband or wife all or any part of the estate of the other"). However, in granting broad discretion, the state does not appear to mandate any particular classification. See, e.g., *De Répentin v. De Répentin*, 121 Conn. App. 451, 461-62 (Conn. App. 2010) ("[A]lthough both parties made contributions to the acquisition, maintenance, and reservation of this asset, the evidence clearly supports a finding that the defendant's contribution was significantly greater... we will not second-guess the court's decision to grant ownership of [the asset] to the defendant."). Regardless, the available information does not support the conclusion that Foley and Wilson-Foley indeed shared in their use and maintenance of the account in question. To the contrary, Foley testified at trial that their assets are separate and that his \$500,000 conveyance to Wilson-Foley came from his separate account.

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENT: Lisa Wilson-Foley and MUR: 6566
4 Lisa Wilson-Foley for Congress and
5 Lisa Wilson-Foley in her official
6 capacity as treasurer

7 **I. INTRODUCTION**

8 For the reasons discussed below, the Commission finds reason to believe Lisa Wilson-
9 Foley, in her individual capacity, and Lisa Wilson-Foley for Congress and Lisa Wilson-Foley in
10 her official capacity as treasurer ("the Committee")¹ violated 52 U.S.C. § 30116(f) by accepting
11 \$500,000 from Brian Foley, her spouse, and that the Committee also violated 52 U.S.C.
12 § 30104(b) by failing to properly report the receipt.

13 **II. BACKGROUND**

14 In the course of related criminal proceedings, Brian Foley testified at the trial of former
15 Connecticut Governor John Rowland.² Based on Foley's testimony and additional information
16 available to the Commission, as discussed in detail below, the Commission notified Wilson-
17 Foley as a respondent in her individual capacity and gave her the opportunity to respond.³
18 Wilson-Foley responded after a substantial extension, for which she provided an agreement
19 tolling the statute of limitations.⁴ Previously, at the conclusion of the criminal proceedings, the
20 Commission found reason to believe the Committee knowingly and willfully violated 52 U.S.C.

¹ Wilson-Foley was a candidate for the U.S. House of Representatives in Connecticut's Fifth Congressional District in 2012. Wilson-Foley lost the August 14, 2012 Republican primary election. Wilson-Foley was named as treasurer of the Committee on April 14, 2014. See Amended Statement of Org., Lisa Wilson-Foley for Congress (Apr. 14, 2014).

² *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014).

³ Notification to Lisa Wilson-Foley, MUR 6566 (Nov. 5, 2015).

⁴ Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Wilson-Foley) (Dec. 20, 2015) (tolling the statute of limitations for 120 calendar days); Consent to Extend the Time to Institute a Civil Law Enf. Suit, MUR 6566 (Lisa Wilson-Foley for Congress) (Feb. 16, 2016) (same).

1 §§ 30116(f) and 30104(b) by accepting and failing to report excessive in-kind contributions of
2 \$35,000 in payments to Rowland for work on Wilson-Foley's campaign during the 2012 election
3 cycle.⁵

4 III. FACTUAL AND LEGAL ANALYSIS

5 During the Rowland trial, Brian Foley testified that he made a \$500,000 gift to his wife
6 for use in her campaign. On direct examination, Foley testified, "I understood I could give my
7 wife money directly which she could contribute, but in terms of my contribution to the
8 campaign, I understood I was maxed out at \$7,500."⁶ During cross-examination, he continued:

9 A. I told Lisa when she was going to run for Congress that I would
10 contribute half a million dollars. . . . \$500,000.

11 Q. I have no interest in probing into —

12 A. No, it's okay.

13 Q. Your private — I'm about to ask a question and I'm prefacing it by
14 saying I'm not interested in your private financial affairs with your
15 wife. But are there joint assets?

16 A. No.

17 Q. So they're separate.

18 A. Our assets are separate, yeah.

19 Q. So you were going to contribute a half a million bucks?

20 A. I did. I put [\$]500,000 into Lisa's campaign for Congress.

21 Q. And did Lisa make a substantial contribution on her own?

22 A. I think she put in about \$500,000 as well.

23 Q. In what form?

24 A. Just wrote checks to the campaign. And my checks went to Lisa
25 and then she put my money into the campaign.⁷

26 The Committee's disclosure reports to the Commission show that, to date, Wilson-Foley has
27 made contributions to the Committee totaling \$47,756 and loans totaling \$960,000.⁸

⁵ Factual and Legal Analysis (Lisa Wilson-Foley for Congress), MUR 6566 (Jul. 20, 2015).

⁶ Transcript of Record at 179-80, *United States v. Rowland*, No. 3:14-CR-79 (D. Conn. Sept. 5, 2014) (Doc. 158) ("Rowland Transcript").

⁷ *Id.* at 228-29.

⁸ Wilson-Foley made her first loan to the Committee on April 1, 2011; she made her most recent contribution on December 16, 2014.

1 In response to the Commission's notifications, Wilson-Foley asserts that there is no
2 information to show that "Lisa Wilson-Foley's contributions to her own campaign came solely
3 and exclusively out of funds provided to her by Foley."⁹ She further cites Connecticut law for
4 the proposition that "where marital efforts were expended to maintain or enhance individual
5 accounts, and where portion(s) of individual accounts are used for marital purposes, the accounts
6 are marital assets" and state that this entitles Wilson-Foley "as much right to their use as Foley
7 himself."¹⁰ However, Wilson-Foley has not provided any additional information about the
8 source of the \$500,000 or any information to indicate that these assets were "enhance[d]" by
9 "marital efforts" or "used for marital purposes."

10 In 2012, the Act prohibited persons from making contributions to any candidate and his
11 or her authorized political committee with respect to any election for federal office which, in the
12 aggregate, exceeded \$2,500.¹¹ The term "contribution" includes "any gift, subscription, loan,
13 advance, or deposit of money or anything of value made by any person for the purpose of
14 influencing any election for Federal office."¹²

15 Federal candidates may make unlimited contributions from their "personal funds" to their
16 campaigns.¹³ "Personal funds" of a candidate means the sum of all of the following: (a) assets;
17 (b) income; and (c) jointly owned assets.¹⁴ A candidate's assets are amounts derived from any

⁹ Wilson-Foley Resp. ¶ 6 (Feb. 16, 2016).

¹⁰ *Id.* ¶ 6 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).

¹¹ 52 U.S.C. § 30116(a)(1)(A).

¹² *Id.* § 30101(8)(A)(i).

¹³ 11 C.F.R. § 110.10.

¹⁴ *Id.* § 100.33. A candidate's income consists of income received during the current election cycle, of the candidate, including: salary and other earned income that the candidate earns from bona fide employment; income from the candidate's stocks or other investments including interest, dividends, or proceeds from the sale or liquidation of such stocks or investments; bequests to the candidate; income from trusts established before the

1 asset that, under applicable state law, at the time the individual became a candidate, the candidate
2 had legal right of access to or control over, and with respect to which the candidate had legal and
3 rightful title or an equitable interest.¹⁵ A candidate's jointly owned assets are amounts derived
4 from a portion of assets that are owned jointly by the candidate and the candidate's spouse as
5 follows: the portion of assets that is equal to the candidate's share of the asset under the
6 instrument of ownership or conveyance; or if no specific share is indicated by an instrument of
7 ownership or conveyance, the value of one-half of the property.¹⁶

8 Although federal candidates may contribute unlimited personal funds to their campaigns,
9 their family members are subject to the Act's contribution limits.¹⁷ The Commission has
10 enforced the contribution limit against family members who made excessive contributions to the
11 candidate's campaign in the form of asset transfers to the candidate.¹⁸

12 Here, Foley testified at trial that he and his wife have separate assets and that he
13 transferred \$500,000 of his own assets to her to contribute to her campaign.¹⁹ He testified that

beginning of the election cycle; income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary; gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and proceeds from lotteries and similar games of chance. *Id.* § 100.33(b).

¹⁵ *Id.* § 100.33(a).

¹⁶ *Id.* § 100.33(c).

¹⁷ The United States Supreme Court has upheld the constitutionality of the Act's contribution limits as applied to members of a candidate's family. *See Buckley v. Valeo*, 424 U.S. 1, 53 n.59 ("Although the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily members.").

¹⁸ *See, e.g.*, MUR 6417 (Huffman) (finding reason to believe a candidate and his spouse violated 52 U.S.C. § 30116(a) and (f) by transferring \$900,000 from the spouse's separately-held trust account to the couple's joint account to be loaned to the candidate's campaign and transferring \$400,000 from the spouse's separately-held trust account directly to the candidate's campaign); MUR 5334 (O'Grady) (finding reason to believe a candidate and her spouse violated 52 U.S.C. § 30116(a) and (f) by making and accepting a \$25,000 loan from the spouse's separate business account).

¹⁹ *Rowland* Transcript at 228-29.

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1 Wilson-Foley used that money, along with approximately \$500,000 of her own separate assets,
2 to write checks to her campaign.²⁰ Indeed, the Committee's disclosure reports show that, to date,
3 Wilson-Foley has made contributions to the Committee totaling \$47,756.20 and loans totaling
4 \$960,000.²¹

5 Because it appears Foley transferred funds to Wilson-Foley after she became a candidate,
6 the transferred funds do not qualify as Wilson-Foley's assets under 11 C.F.R. § 100.33(a).
7 Because the funds he transferred were separate and not held in a joint account, the transferred
8 funds were not jointly owned assets under 11 C.F.R. § 100.33(c).

9 Given Foley's testimony that he made the contribution from separately held assets and
10 that "[his] checks went to Lisa and then she put [his] money into the campaign,"²² the \$500,000
11 at issue does not appear to qualify as Wilson-Foley's personal funds. Instead, Foley's
12 conveyance appears to be an excessive contribution in violation of the Act. Under these
13 circumstances, Wilson-Foley and, through her, the Committee, appear to have accepted the
14 excessive contribution, and failed to appropriately report it. Accordingly, the Commission finds

²⁰ *Id.* ("[M]y checks went to Lisa and then she put my money into the campaign").

²¹ The Committee has not repaid any of Wilson-Foley's loans.

²² *Rowland* Transcript at 230. In her response, Wilson-Foley asserts that Connecticut law considers individual accounts to be marital assets where "portion(s) of individual accounts are used for marital purposes." Wilson-Foley Resp. at ¶ 6 (citing *Murphy v. Murphy*, 2001 WL 1420600 (Conn. Sup. Ct. 2001)).

Connecticut law appears to allow courts broad discretion in classifying and reallocating the property of spouses, allowing courts to consider numerous factors, including the contribution of each party in the acquisition, preservation or appreciation in value of their respective estates. CONN. GEN. STAT. § 46b-81 ("At the time of entering a decree annulling or dissolving a marriage... the Superior Court may assign to either the husband or wife all or any part of the estate of the other"). However, in granting broad discretion, the state does not appear to mandate any particular classification. *See, e.g., De Repentigny v. De Repentigny*, 121 Conn. App. 451, 461-62 (Conn. App. 2010) ("[A]lthough both parties made contributions to the acquisition, maintenance and reservation of this asset, the evidence clearly supports a finding that the defendant's contribution was significantly greater... we will not second-guess the court's decision to grant ownership of [the asset] to the defendant."). Regardless, the available information does not support the conclusion that Foley and Wilson-Foley indeed shared in their use and maintenance of the account in question. To the contrary, Foley testified at trial that their assets are separate and that his \$500,000 conveyance to Wilson-Foley came from his separate account.

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- 1 reason to believe Lisa Wilson-Foley and the Committee violated 52 U.S.C. § 30116(f), and the
- 2 Committee violated 52 U.S.C. § 30104(b).

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1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2
3 RESPONDENTS: Lisa Wilson-Foley for Congress
4 and Lisa Wilson-Foley in her official MUR 6566
5 capacity as treasurer
6

7 **FACTUAL AND LEGAL ANALYSIS**

8
9 **I. INTRODUCTION**

10 This matter was generated by a Complaint filed with the Federal Election
11 Commission by Mike Clark and Mike Clark for Congress, alleging violations of the
12 Federal Election Campaign Act of 1971, as amended (the "Act"), by Respondents.

13 **II. FACTUAL AND LEGAL ANALYSIS**

14 **A. Background**

15 The Complaint alleges that Lisa Wilson-Foley for Congress (the "Committee")
16 received in-kind contributions from Wilson-Foley's family business in violation of the
17 Act.¹ Specifically, the Complaint alleges that Apple Health Care, Inc. ("Apple Health")
18 — whose president, Brian Foley, is Wilson-Foley's spouse — paid John Rowland, a
19 former governor of Connecticut, as a "consultant" while he provided campaign work for
20 the Committee, suggesting that those payments were in fact payments for services
21 Rowland provided the campaign.²

22 The Complaint posits that Apple Health's payments to Rowland may have
23 constituted unreported corporate contributions from Apple Health to the Committee,
24 relying on a series of press reports that suggest Rowland's consulting arrangement with

¹ The Committee is the principal campaign committee of Lisa Wilson-Foley, a candidate for the U.S. House of Representatives in the Fifth Congressional District of Connecticut in 2012. Wilson-Foley lost the August 14, 2012, primary election.

² Compl. at 2 (May 1, 2012).

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1 Apple Health was a cover, and that Rowland was in fact being paid as a result of his work
2 for the Committee.³ In support of that inference, those press reports recite allegations
3 that Rowland previously offered campaign consulting services to Mark Greenberg, a
4 candidate in 2010 and 2012 in the Fifth Congressional District of Connecticut and
5 Wilson-Foley's opponent in 2012, under a similar arrangement — where Greenberg's
6 nonprofit animal shelter would pay Rowland for campaign-related services rather than
7 Greenberg's campaign directly.⁴

8 The Committee argues in response that the Complaint fails to state a claim as to
9 the allegations because (i) they are factually insufficient in that they rely on hearsay and
10 third-party media sources;⁵ (ii) they do not specifically state that Apple Health paid
11 Rowland for work he provided the Committee or that Rowland used Apple Health
12 resources to benefit the Committee;⁶ and (iii) the relevant law expressly provides that an
13 individual does not make a contribution to a committee of services provided voluntarily
14 and without compensation, even if employed by another entity at the time.⁷

15 Concerning Apple Health's payments to Rowland, the Committee does not deny
16 that Rowland engaged in a paid consulting relationship with Apple Health while

³ *Id.* at 1-2. The Complaint asserts that it is premised on information in media sources and other information generally available to the public, including statements made by the Wilson-Foley campaign itself, attaching three press articles in support. *Id.*, Attach.

⁴ *Id.* at 2.

⁵ Committee Resp. at 2 (July 10, 2012).

⁶ *Id.* at 4.

⁷ *Id.* at 3. The Committee responded similarly to the Complaint in MUR 6604, which attached a copy of the Complaint filed in MUR 6566. *See* Compl., Attach. 1, MUR 6604 (July 2, 2012); Committee Resp., MUR 6604 (Aug. 29, 2012). On February 25, 2014, the Commission severed from MUR 6604 the allegations that the Committee received a contribution from Apple Health in the form of consultant payments to Rowland and merged those allegations into MUR 6566.

1 providing political campaign services to the Committee.⁸ Instead, the Committee denies
2 that the Complaints allege a violation of the Act, asserting that the only factual
3 allegations in the Complaints concern permissible volunteer activity of an individual who
4 is employed by another entity.⁹ The Committee contends that there is no express factual
5 allegation in the Complaint that Apple Health paid Rowland to work for the Wilson-
6 Foley campaign or that Rowland "was volunteering his time when he was supposed to be
7 working for Apple [Health]."¹⁰ The Committee also asserts that Rowland's alleged offer
8 to Greenberg in the 2010 cycle has nothing to do with Respondents in the current
9 matter.¹¹ The Committee does not directly deny that Rowland was paid by Apple Health
10 to work for the Committee.

11 The allegations in this matter have also been the subject of a criminal
12 investigation conducted by the U.S. Attorney's Office for the District of Connecticut. On
13 March 31, 2014, Lisa Wilson-Foley and Brian Foley each entered a guilty plea to a single
14 misdemeanor count of conspiracy to violate 2 U.S.C. §§ 441a(a)(1)(A), 441a(f), and
15 437g(d)(1)(A)(ii), in violation of 18 U.S.C. § 371, in connection with Brian Foley's
16 payments to Rowland for work on Lisa Wilson-Foley's 2012 campaign. Brian Foley was
17 sentenced on January 9, 2015, to three months in a halfway house, three years of
18 probation, and a \$30,000 fine.¹² Lisa Wilson-Foley was sentenced on March 24, 2015, to

⁸ See Committee Resp. at 1-4.

⁹ *Id.* at 1-3.

¹⁰ *Id.* at 4.

¹¹ *Id.* at 2.

¹² See Sentencing, *United States v. Brian Foley*, Crim. No. 3:14CR-65 (D. Conn. Jan. 9, 2015).

1 five months in prison, one year of probation and a \$20,000 fine.¹³ John Rowland was
2 tried and found guilty on September 19, 2014 of aiding and abetting violations of
3 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f) and for violating 18 U.S.C. §§ 1519 (falsification
4 of records), 371 (conspiracy), and 1001 (false statements).¹⁴ On March 18, 2015, he was
5 sentenced to thirty months in prison.¹⁵

6 On the basis of the available information, the Commission finds reason to believe
7 that the Committee failed to disclose contributions in the form of payments to Rowland
8 for working on Wilson-Foley's campaign.¹⁶ The information now indicates that the
9 Committee accepted excessive contributions from Brian Foley rather than corporate
10 contributions from Apple Health.¹⁷ The information developed in the criminal
11 prosecutions, moreover, suggests that these violations were knowing and willful.

12 **B. The Committee Knowingly and Willfully Accepted and Failed to**
13 **Disclose Excessive Contributions**
14

15 The sworn admissions accompanying the guilty pleas of Lisa Wilson-Foley and
16 Brian Foley plainly show that the Committee received in-kind contributions in the form

¹³ See Sentencing, *United States v. Lisa Wilson-Foley*, Crim. No. 3:14CR-65 (D. Conn. Mar. 24, 2015).

¹⁴ See Jury Verdict, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Sept. 19, 2014).

¹⁵ See Sentencing, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Mar. 18, 2015). On March 30, 2015, Rowland filed a notice of appeal. See Notice of Appeal, *United States v. Rowland*, Crim. No. 3:14CR-79 (D. Conn. Mar. 30, 2015).

¹⁶ See 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)). On September 1, 2014, the Act was transferred from Title 2 to new Title 52 of the United States Code.

¹⁷ See 52 U.S.C. §§ 30116(f) and 30118(a) (formerly 2 U.S.C. §§ 441a(f) and 441b(a)). According to the guilty pleas, Brian Foley personally paid Rowland for working on Lisa Wilson-Foley's 2012 campaign.

1 of Brian Foley's payments to John Rowland for campaign work totaling \$35,000 that the
2 Committee never disclosed. As Lisa Wilson-Foley stipulated in her Plea Agreement:

3 In calendar year 2011, [Rowland]¹⁸ was paid approximately \$15,000 for
4 services rendered to the Campaign. In calendar year 2012, [Rowland] was
5 paid approximately \$20,000 for services rendered to the Campaign. These
6 payments originated with [Brian] Foley and constituted contributions to
7 the Campaign Committee. As [Lisa Wilson-Foley] knew, those
8 contributions were not reported to the FEC, in violation of federal
9 campaign finance laws.¹⁹

10 The Act and Commission regulations require political committees to report all
11 contributions received, whether monetary or in-kind, during a given reporting period.²⁰
12 "Contribution" under the Act and Commission regulations includes the payment by any
13 person of compensation for the personal services of another person rendered to a political
14 committee without charge for any purpose.²¹ During the 2012 election cycle, the Act
15 prohibited any person from making contributions to any candidate and the candidate's
16 authorized political committee with respect to any election for Federal office which, in
17 the aggregate, exceeded \$2,500.²² In addition, the Act prohibits any candidate or political
18 committee from knowingly accepting any contribution or making any expenditure in
19

¹⁸ Rowland is referred to as "Co-Conspirator 1" in the filings that accompany Wilson-Foley's guilty plea.

¹⁹ Stipulation of Offense Conduct, *United States v. Wilson-Foley*, 3:14-CR-65 (Mar. 31, 2014) ("Lisa Wilson-Foley Stipulation").

²⁰ 52 U.S.C. § 30104(b) (formerly 2 U.S.C. § 434(b)); 11 C.F.R. § 104.3.

²¹ 52 U.S.C. § 30101(8)(A)(ii) (formerly 2 U.S.C. § 431(8)(A)(ii)); 11 C.F.R. §§ 100.52(d), 100.54.

²² 52 U.S.C. § 30116(a)(1)(A) (formerly 2 U.S.C. § 441(a)(1)(A)). Contribution limits also apply to a candidate's family members. See *Buckley v. Valeo*, 424 U.S. 1, 51 n.57, 53 n.59 (1976) (upholding the constitutionality of contribution limits as to family members, reasoning that, "[a]lthough the risk of improper influence is somewhat diminished in the case of large contributions from immediate family members, we cannot say that the danger is sufficiently reduced to bar Congress from subjecting family members to the same limitations as nonfamily contributors").

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1 violation of the provisions of section 30116 (formerly section 441a).²³ And any
2 candidate who receives a contribution does so as an agent of the candidate's authorized
3 committee.²⁴

4 The Committee, through the candidate Lisa Wilson-Foley, knowingly received a
5 \$35,000 in-kind contribution from Brian Foley that the Committee did not disclose.²⁵
6 Foley had already contributed the maximum to the Committee for the 2012 election
7 cycle, so the entire amount of the in-kind contribution is excessive.²⁶ Accordingly, there
8 is reason to believe that the Committee violated 52 U.S.C. §§ 30106(f) and 30104(b)
9 (formerly 2 U.S.C. §§ 441a(f) and 434(b)).

10 There is also reason to believe that the Committee's violations were knowing and
11 willful. A violation of the Act is knowing and willful if the "acts were committed with
12 full knowledge of all the relevant facts and a recognition that the action is prohibited by
13 law."²⁷ Lisa Wilson-Foley has admitted to conspiring to accept excessive in-kind
14 contributions from Brian Foley with the intention that the purpose of the contribution —
15 to pay Rowland for campaign work — would not be disclosed. As Lisa Wilson-Foley
16 stipulated in her Plea Agreement:

17 . . . The defendant [Wilson-Foley] knew that federal law imposed
18 restrictions on contributions to federal campaigns, including a \$2,500 limit
19 on any contribution by any individual during each election, i.e.,

²³ 52 U.S.C. § 30116(f) (formerly 2 U.S.C. § 441a(f)).

²⁴ *Id.* § 30102(e)(2) (formerly 2 U.S.C. § 432(e)(2)).

²⁵ To date, the Committee has not amended its reports to disclose the contribution.

²⁶ Brian Foley contributed \$2,500 to the Committee for the 2012 convention and \$2,500 to the Committee for the 2012 primary election. See 2011 July Quarterly Report at 21.

²⁷ 122 Cong. Rec. H3778 (daily ed. May 3, 1976) (statement of Rep. Hays), *reprinted in* FEC, LEGIS. HISTORY OF FED. ELECTION CAMPAIGN ACT AMENDS. OF 1976, at 1078 (1977).

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1 convention, primary and general elections. The defendant also knew that
2 the Campaign Committee was required by law to file periodic reports with
3 the FEC detailing, among other things, contributions made to her
4 campaign and expenditures made on the campaign's behalf. In these
5 reports, the Campaign Committee was required to identify each person
6 who, during the relevant reporting period, contributed more than \$200 to
7 the committee, together with the date and the amount of any such
8 contribution. The defendant knew that one of the purposes of these
9 reporting requirements was to make available to the voting public
10 information concerning the source of contributions to the Campaign and
11 the nature of the Campaign's expenditures.

12
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15 The defendant wanted [Rowland] to work for her congressional campaign.
16 However, the defendant knew and believed that, if [Rowland] was hired in
17 a significant role by her Campaign and paid through the Campaign
18 Committee for that work, the media and the voting public would become
19 aware of [Rowland's] official association with her Campaign. The
20 defendant knew and believed that disclosure of [Rowland's] paid role in
21 the Campaign would result in substantial negative publicity for her
22 candidacy because [Rowland] had previously been convicted of a felony
23 offense. In order to retain [Rowland's] services for the Campaign while
24 reducing the risk that his paid Campaign role would be disclosed to the
25 public, the defendant, [Brian] Foley, [Rowland] and others agreed that
26 [Rowland] would be paid by [Brian] Foley to work on the Campaign.²⁸

27
28 Accordingly, the Committee, through the candidate, Lisa Wilson-Foley,²⁹ was aware of
29 the Act's contribution limits and disclosure requirements and affirmatively sought to
30 accept the excessive contributions while not disclosing them. The Commission therefore
31 finds reason to believe that the Committee knowing and willfully violated 52 U.S.C.
32 §§ 30116(f) and 30104(b) (formerly 2 U.S.C. §§ 441a(f) and 434(b)) by receiving
33 excessive contributions and failing to disclose the contributions on reports filed with the
34 Commission.

²⁸ Lisa Wilson-Foley Stipulation.

²⁹ See 52 U.S.C. § 30102(e)(2) (formerly 2 U.S.C. § 432(e)(2)).

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